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**IN THE
COURT OF APPEALS OF INDIANA**

MARK R. MARTIN,

Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 48A02-0612-CR-1173

APPEAL FROM THE MADISON COUNTY COURT
The Honorable David W. Hopper, Judge
Cause No. 48E01-0403-FD-133

July 19, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Mark R. Martin appeals his sentence for Operating a Vehicle While Intoxicated with a previous conviction for the same offense within the past five years, as a Class D felony.¹ We affirm.

Issue

Martin raises a single issue on appeal, which we re-state as: whether his sentence is inappropriate in light of the nature of the offense and his character.

Facts and Procedural History

Martin operated a vehicle with a blood alcohol content (“BAC”) of .18%. The State charged him with Operating a Vehicle with a BAC of .15 or More, as a Class A misdemeanor, Operating a Vehicle While Intoxicated with a previous conviction for the same offense within the past five years, as a Class D felony, and sought to have him adjudicated an habitual substance offender. Pursuant to a plea agreement, Martin pled guilty to the Class D felony and the State dismissed the other two counts. Sentencing was left to the trial court’s consideration.

The trial court found mitigating circumstances in Martin’s surrendering² and pleading guilty and an aggravating circumstance in his criminal history. The trial court sentenced him to the maximum three-year term of imprisonment for a Class D felony, with half of that time to be executed. The trial court suspended the other half of the sentence, ordering Martin to be placed on probation and to participate in the Madison County Drug Court Program. In

¹ Ind. Code § 9-30-5-3.

sentencing Martin, the trial court stated that “a fourth O.W.I. conviction does call for some actual prison time . . . to help you understand that operating a vehicle in an impaired state is an extremely dangerous criminal act.” Transcript at 19. Martin now appeals.

Discussion and Decision

Martin argues that his sentence is inappropriate and therefore should be revised. Indiana Appellate Rule 7(B) provides that this “Court may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.”

Martin was driving with a BAC more than twice the legal limit. Meanwhile, Martin’s criminal history is extensive. This is his first felony conviction. In considering both his juvenile and adult records, Martin has been arrested at least twenty-four times, resulting in seventeen convictions. Of those, twelve were offenses related to alcohol or drugs. As the trial court noted, this was Martin’s fourth offense for Operating a Vehicle While Intoxicated. The first was as a juvenile and the third was the basis for charging the instant offense as a Class D felony. At the time of sentencing, misdemeanor charges were pending in Virginia and felony charges were pending in Indiana.

While the trial court sentenced Martin to the maximum term of imprisonment, it suspended half of the term to probation and a drug program. Based upon our review of the case and our consideration of the trial court’s decision, we conclude that Martin’s sentence for Operating a Vehicle While Intoxicated is not inappropriate.

² Martin had been in Virginia prior to sentencing. 3

Affirmed.

SHARPNACK, J., and MAY, J., concur.